

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M2 CONSULTING, INC.

Plaintiff,

v.

C.A. No. 03-12589-GAO

MRO SOFTWARE, INC.

Defendant.

AFFIDAVIT OF KURT E. BRATTEN

I, Kurt E. Bratten, state as follows:

1. I am counsel to MRO Software, Inc. (“MRO”), the Defendant in the above-captioned case. Unfortunately, it is necessary to submit this affidavit in response to the Affidavit of Mark S. Resnick, signed and filed on March 29, 2005, due to several inaccuracies contained therein. The facts in this affidavit are based upon my personal knowledge, except in those instances where I have indicated otherwise.

2. On March 23, 2005, I personally provided Mr. Resnick, counsel to M2 Consulting, Inc. (“M2”), with drafts of MRO’s Motion to Amend Counterclaim, Verified First Amended Counterclaim, Emergency Motion for Expedited Discovery Into Issues Related To Copyright Infringement and the supporting Affidavit of James Battle. I told Mr. Resnick that MRO intended to promptly file these documents with the Court but not before the parties conferred pursuant to Local Rule 7.1. Mr. Resnick and I agreed to confer concerning these documents on March 24, 2005.

3. On March 24, 2005, I held a discovery conference with Mr. Resnick. During this conference, I informed Mr. Resnick for the first time that MRO intended to file a Motion for Short Order of Notice with respect to its Emergency Motion for Expedited Discovery Into Issues Related To Copyright Infringement. Mr. Resnick and I proceeded to discuss the Motion for Short Order of Notice and the other Motions which Mr. Resnick was previously given drafts of (collectively, "MRO's Motions"). During this discovery conference, Mr. Resnick stated that M2 would not oppose MRO's Motion to Amend its Counterclaim, but he stated that M2 would oppose MRO's Emergency Motion for Expedited Discovery. While discussing MRO's Motion for Short Order of Notice, Mr. Resnick and I discussed his schedule during the week of March 28, 2005. I informed M2's counsel that MRO would consider the information that he presented during this discovery conference, but I specifically stated that MRO may file its Motion for Short Order of Notice without any further conference with M2 due to the urgency and importance of MRO's Motions.

4. On March 24, 2005, I conferred with M2's counsel and attempted in good faith to resolve or narrow the issues raised in MRO's Motions. Accordingly, Local Rule 7.1(A)(2) has been satisfied.

Signed under the pains and penalties of perjury this 29th day of March 2005.

/s/ Kurt E. Bratten
Kurt E. Bratten